

MANDATE

**UNITED STATES COURT OF APPEALS
FOR THE
SECOND CIRCUIT**

USDC SDNY
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At a Stated Term of the United States Court of Appeals for the Second Circuit, held at the Thurgood Marshall United States Courthouse, 40 Foley Square, in the City of New York, on the 8th day of September, two thousand twenty.

ORDER

EVA WALDMAN, REVITAL BAUER, INDIVIDUALLY AND AS NATURAL GUARDIAN OF PLAINTIFFS YEHONATHON BAUER, BINYAMIN BAUER, DANIEL BAUER AND YEHUDA BAUER, SHAUL MANDELKORN, NURIT MANDELKORN, OZ JOSEPH GUETTA, MINOR, BY HIS NEXT FRIEND AND GUARDIAN VARD GUETTA, VARD GUETTA, INDIVIDUALLY AND AS NATURAL GUARDIAN OF PLAINTIFF OZ JOSEPH GUETTA, NORMAN GRITZ, INDIVIDUALLY AND AS PERSONAL REPRESENTATIVE OF THE ESTATE OF DAVID GRITZ, MARK I. SOKOLOW, INDIVIDUALLY AND AS A NATURAL GUARDIAN OF PLAINTIFF JAMIE A. SOKOLOW, RENA M. SOKOLOW, INDIVIDUALLY AND AS A NATURAL GUARDIAN OF PLAINTIFF JAIME A. SOKOLOW, JAMIE A. SOKOLOW, MINOR, BY HER NEXT FRIENDS AND GUARDIAN MARK I. SOKOLOW AND RENA M. SOKOLOW, LAUREN M. SOKOLOW, ELANA R. SOKOLOW, SHAYNA EILEEN GOULD, RONALD ALLAN GOULD, ELISE JANET GOULD, JESSICA RINE, SHMUEL WALDMAN, HENNA NOVACK WALDMAN, MORRIS WALDMAN, ALAN J. BAUER, INDIVIDUALLY AND AS NATURAL GUARDIAN OF PLAINTIFFS YEHONATHON BAUER, BINYAMIN BAUER, DANIEL BAUER AND YEHUDA BAUER, YEHONATHON BAUER, MINOR, BY HIS NEXT FRIEND AND GUARDIANS DR. ALAN J. BAUER AND REVITAL BAUER, BINYAMIN BAUER, MINOR, BY HIS NEXT FRIEND AND GUARDIANS DR. ALAN J. BAUER AND REVITAL BAUER, DANIEL BAUER, MINOR, BY HIS NEXT FRIEND AND GUARDIANS DR. ALAN J. BAUER AND REVITAL BAUER, YEHUDA BAUER, MINOR, BY HIS NEXT FRIEND

Docket Nos.
15-3135-cv (Lead);
15-3151-cv (XAP)

AND GUARDIANS DR. ALAN J. BAUER AND
 REVITAL BAUER, RABBI LEONARD MANDELKORN,
 KATHERINE BAKER, INDIVIDUALLY AND AS
 PERSONAL REPRESENTATIVE OF THE ESTATE OF
 BENJAMIN BLUTSTEIN, REBEKAH BLUTSTEIN,
 RICHARD BLUTSTEIN, INDIVIDUALLY AND AS
 PERSONAL REPRESENTATIVE OF THE ESTATE OF
 BENJAMIN BLUTSTEIN, LARRY CARTER,
 INDIVIDUALLY AND AS PERSONAL
 REPRESENTATIVE OF THE ESTATE OF DIANE
 ("DINA") CARTER, SHAUN COFFEL, DIANNE
 COULTER MILLER, ROBERT L COULTER, JR.,
 ROBERT L. COULTER, SR., INDIVIDUALLY AND
 AS PERSONAL REPRESENTATIVE OF THE ESTATE
 OF JANIS RUTH COULTER, CHANA BRACHA
 GOLDBERG, MINOR, BY HER NEXT FRIEND AND
 GUARDIAN KAREN GOLDBERG, ELIEZER SIMCHA
 GOLDBERG, MINOR, BY HER NEXT FRIEND AND
 GUARDIAN KAREN GOLDBERG, ESTHER ZAHAVA
 GOLDBERG, MINOR, BY HER NEXT FRIEND AND
 GUARDIAN KAREN GOLDBERG, KAREN GOLDBERG,
 INDIVIDUALLY, AS PERSONAL REPRESENTATIVE
 OF THE ESTATE OF STUART SCOTT
 GOLDBERG/NATURAL GUARDIAN OF PLAINTIFFS
 CHANA BRACHA GOLDBERG, ESTHER ZAHAVA
 GOLDBERG, YITZHAK SHALOM GOLDBERG,
 SHOSHANA MALKA GOLDBERG, ELIEZER SIMCHA
 GOLDBERG, YAAKOV MOSHE GOLDBERG, TZVI
 YEHOSHUA GOLDBERG, SHOSHANA MALKA
 GOLDBERG, MINOR, BY HER NEXT FRIEND AND
 GUARDIAN KAREN GOLDBERG, TZVI YEHOSHUA
 GOLDBERG, MINOR, BY HER NEXT FRIEND AND
 GUARDIAN KAREN GOLDBERG, YAAKOV MOSHE
 GOLDBERG, MINOR, BY HER NEXT FRIEND AND
 GUARDIAN KAREN GOLDBERG, YITZHAK SHALOM
 GOLDBERG, MINOR, BY HER NEXT FRIEND AND
 GUARDIAN KAREN GOLDBERG, NEVENKA GRITZ,
 SOLE HEIR OF NORMAN GRITZ, DECEASED,

Plaintiffs - Appellees - Cross-Appellants,

v.

PALESTINE LIBERATION ORGANIZATION, PALESTINIAN
 AUTHORITY, AKA PALESTINIAN INTERIM SELF-GOVERNMENT
 AUTHORITY AND OR PALESTINIAN COUNCIL AND OR
 PALESTINIAN NATIONAL AUTHORITY,

Defendants - Appellants - Cross-Appellees,

YASSER ARAFAT, MARWIN BIN KHATIB BARGHOUTI, AHMED
TALEB MUSTAPHA BARGHOUTI, AKA AL-FARANSI, NASSER
MAHMOUD AHMED AWEIS, MAJID AL-MASRI, AKA ABU
MOJAHED, MAHMOUD AL-TITI, MOHAMMED ABDEL RAHMAN
SALAM MASALAH, AKA ABU SATKHAH, FARAS SADAK
MOHAMMED GHANEM, AKA HITAWI, MOHAMMED SAMI IBRAHIM
ABDULLAH, ESTATE OF SAID RAMADAN, DECEASED, ABDEL
KARIM RATAB YUNIS AWEIS, NASSER JAMAL MOUSA
SHAWISH, TOUFIK TIRAWI, HUSSEIN AL-SHAYKH, SANA'A
MUHAMMED SHEHADEH, KAIRA SAID ALI SADI, ESTATE OF
MOHAMMED HASHAIKA, DECEASED, MUNZAR MAHMOUD KHALIL
NOOR, ESTATE OF Wafa IDRIS, DECEASED, ESTATE OF
MAZAN FARITACH, DECEASED, ESTATE OF MUHANAD ABU
HALAWA, DECEASED, JOHN DOES, 1-99, HASSAN ABDEL
RAHMAN,

Defendants.

Before: LEVAL, Circuit Judge, AND KOELTL, District Judge.^{*†}

On remand from the United States Supreme Court.

Whereas on April 27, 2020, the Supreme Court of the United States granted a petition for certiorari and vacated this Court's ORDER, dated June 3, 2019, that declined to recall this Court's mandate issued on November 28, 2016; and the Supreme Court remanded the case to this Court for further consideration in light of the Promoting Security and Justice for Victims of Terrorism Act of 2019, Pub. L. No. 116-94, div. J, tit. IX, § 903, 133 Stat. 3082 (the "PSJVTA"),

Now, therefore, this Court REMANDS this case to the district court for the limited purposes of determining the applicability of the PSJVTA to this case, and, if the PSJVTA is determined to apply, any issues regarding its application to this case including its constitutionality.


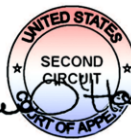
* Judge John G. Koeltl, of the United States District Court for the Southern District of New York, sitting by designation.

† Judge Christopher Droney, who was originally a member of this panel, retired from the Court effective January 1, 2020, before the determination of this matter. The remaining two members of the panel, who are in agreement, have determined this matter. See 28 U.S.C. § 46(d); 2d Cir. IOP E(b); United States v. Desimone, 140 F.3d 457, 458-59 (2d Cir. 1998).

After the district court has concluded its consideration, the case will be returned to this Court for further proceedings. See United States v. Jacobson, 15 F.3d 19, 22 (2d Cir. 1994). The plaintiffs-appellees-cross-appellants' motion, filed on October 8, 2018, to recall the mandate, issued on November 28, 2016, will be held in ABEYANCE.

The Clerk should issue the mandate forthwith.

For the Court:
Catherine O'Hagan Wolfe,
Clerk of Court

A True Copy

Catherine O'Hagan Wolfe, Clerk

United States Court of Appeals, Second Circuit

WAFA News Agency



Despite Having Been Transferred from the Finance [Ministry]: Four Banks Have Not Disbursed Prisoners' Allowances

Ramallah, July 5, 2020 - WAFA

Qadri Abu Bakr, the chairman of the Prisoners and Ex-Prisoners Affairs Commission, stated on Sunday that four banks had not disbursed the allowances of over 150 prisoners' families.

During a telephone conversation with WAFA, Abu Bakr added that the Prisoners' Commission had received phone calls from the prisoners' families, during which they informed the commission that four banks had not paid the allowances of their imprisoned family members.

He stated that the Finance Ministry had transferred all of the prisoners' allowances into their bank accounts, along with the date the allowances were to be paid, but that some of the banks had not committed to the decision to continue disbursing these allowances.

He explained that the commission, in collaboration with the prime minister's office and the [Palestine] Monetary Authority, was following up on the situation to find a solution to this problem as quickly as possible, in order to compel the banks to pay the prisoners' allowances until such time as the Dedicated Banking Institution for Prisoners and Martyrs is established.

Abu Bakr demanded that all banks commit to paying the prisoners' allowances and refrain from closing any of the accounts, or cancelling any of the ATM cards, considering that failing to pay the prisoners' allowances would violate the directives of the [Palestine] Monetary Authority and the government, and that it would violate the agreement that had previously been concluded.

On May 8th, Prime Minister Muhammad Shtiah had announced that an agreement had been reached with the banks on the freezing of any procedures tied to prisoners' accounts held at those banks, following an Israeli threat to take action against them, until the Dedicated Bank for Prisoners and Martyrs is established, within four months.

It should be noted that the occupation authorities had issued a resolution on March 9th of this year, in which they warned the banks against continuing to disburse allowances to the prisoners and martyrs' families and pay into their savings accounts.

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A.A. / M.J.

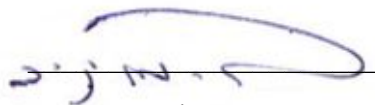
CERTIFICATE OF TRANSLATION

I, Yaniv Berman, declare pursuant to 28 U.S.C. §1746, as follows:

1. I am a professional translator. I am fluent in Arabic and English, and capable of translating accurately between the two languages.
2. The foregoing English-language text is a full and accurate translation of the attached Arabic-language document.
3. I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed at Kfar Saba, Israel

July 24, 2020

A handwritten signature in blue ink, appearing to be 'Yaniv Berman', is written over a horizontal line.

Yaniv Berman

وكالة وفا
سنديانة الاعلام الفلسطيني



رام الله 5-7-2020 وفا- قال رئيس هيئة شؤون الأسرى والمحررين قدري أبو بكر، اليوم الأحد، إن أربعة بنوك لم تصرف رواتب أكثر من 150 من ذوي الأسرى.

وأضاف أبو بكر في اتصال هاتفي مع "وفا"، أن هيئة الأسرى تلقت مكالمات هاتفية من ذوي الأسرى تفيد، بأن أربعة بنوك لم تصرف رواتب ابنائهم المعتقلين.

وأكد أن وزارة المالية حولت جميع رواتب الأسرى الى حساباتهم البنكية مع موعد صرف الرواتب، الا أن بعض البنوك لم تلتزم بقرار الاستمرار بصرف هذه الرواتب.

وأوضح أن الهيئة تتابع مع مكتب رئيس الوزراء وسلطة النقد لحل هذه القضية بأسرع وقت ممكن، والزام البنوك بصرف رواتب الأسرى الى حين تطوير المؤسسة المصرفية الخاصة بالأسرى والشهداء.

وطالب أبو بكر، جميع البنوك بضرورة الالتزام بصرف رواتب الاسرى وعدم تعطيل ايا من الحسابات او بطاقات الصراف الآلي، معتبرا ان عدم صرف رواتب الأسرى هو مخالفة لتعليمات سلطة النقد والحكومة ويخالف الاتفاق الذي تم التوصل اليه سابقا.

وكان رئيس الوزراء محمد اشتية أعلن في الثامن من ايار/ مايو، الاتفاق مع البنوك على تجميد أي إجراء بخصوص حسابات الأسرى لديها، عقب التهديد الإسرائيلي باتخاذ إجراءات بحقها لحين انجاز البنك الخاص بالأسرى والشهداء خلال 4 شهور.

يذكر أن سلطات الاحتلال أصدرت قرارا في 9 مارس المنصرم، حذرت فيه البنوك من الاستمرار بصرف مستحقات ومدخرات الأسرى وذوي الشهداء.

أ.م.ج

English Translation of Interview of Qadri Abu Bakr

(<https://www.facebook.com/samertayem2020/videos/321807815502094>)

34:45 - 37:16

Samir Taym: Abu Fadi, we're looking at the subject of visits, people have started saying that they're coming on the 22nd of July, they were talking to us about visits during the coronavirus outbreak.

Qadri Abu Bakr (Abu Fadi): Before the 6th, we had a meeting with the Red Crescent, and they informed us that the [Israel] Prison Service had agreed to prison visits after the 6th.

Samir Taym: Yes.

Qadri Abu Bakr (Abu Fadi): Now, we and the Red Crescent came to an agreement with the Ministry of Health. They sent us the protocol that we need to follow, for example, if the bus is [for] 50 [passengers], there can be less than half, sterilization of the bus, gloves. Also... at the first stage, only three prisons will be visited: Ofer Prison, Ktzi'ot Prison and Rimon Prison, these are the three prisons that they will visit, and the visits will begin on the 12th, the 13th and the 14th. The visits will continue to the rest of the prisons, but as for the regions that are contaminated with coronavirus, they might be delayed a bit.

Samir Taym: I see.

Qadri Abu Bakr (Abu Fadi): So that will... that's based on...

Samir Taym: But you're still having consultations with the Red Crescent on this subject?

Qadri Abu Bakr (Abu Fadi): We're consulting, and, of course, we also agree, we basically want to maintain the wellbeing of our people, and preparations have begun. Now, the Red Crescent has announced that those who want to register... almost all of them went and registered, and the [visits] will begin on the 12th, the 13th and the 14th.

Samir Taym: Abu Fadi, are we talking about one visit, or two?

Qadri Abu Bakr (Abu Fadi): No, I mean, there are going to be three visits.

Samir Taym: Three visits.

Qadri Abu Bakr (Abu Fadi): 12th, 13th and 14th.

Samir Taym: I see, for example, there is a message saying that there's a visit on July 22nd...

Qadri Abu Bakr (Abu Fadi): The 12th, the 13th and the 14th, and on the 22nd they may be completed, as I said, to the areas. But this also depends on the Israelis procedures. We don't want to be taken by surprise tomorrow, we want to see how the spread of the pandemic... the Israeli side might prevent [the visits].

Samir Taym: With regards to the salaries, have they all been received at the banks?

Qadri Abu Bakr (Abu Fadi): Regarding the salaries, everything was fine. On Wednesday, obviously, after having discussions with some of the banks that were disbursement stations, almost all of the prisoners... we didn't receive almost any phone call from any prisoner.

Samir Taym: Yes.

Qadri Abu Bakr (Abu Fadi): They went to the banks and they [the banks] disbursed to them.

Samir Taym: That's wonderful, that's the very least we can give our prisoners, who have given their lives, their blood, years of their lives so that we can live freely and with dignity. We'll go now to the district that we take pride and joy in, it is the homeland's district that has been beset with the most arrests – the Hebron district.

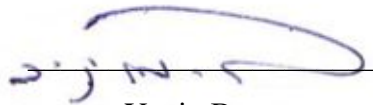
CERTIFICATE OF TRANSLATION

I, Yaniv Berman, declare pursuant to 28 U.S.C. § 1746, as follows:

1. I am a professional translator. I am fluent in Arabic and English, and capable of translating accurately between the two languages.
2. The foregoing English-language text is a full and accurate translation of the attached Arabic-language transcript.
3. The transcript accurately records a portion of an interview of Qadri Abu Bakr appearing in a video published on Facebook starting at 34:45 and continuing through 37:16. I viewed the video at <https://www.facebook.com/samertayem2020/videos/321807815502094>.
3. I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed at Kfar Saba, Israel

September 1, 2020



Yaniv Berman

مقابلة: قدرى أبو بكر

(<https://www.facebook.com/samertayem2020/videos/321807815502094>)

[34:45 - 37:16]

سامر تيم: أبو فادي، يعني إحنا منشوف موضوع الزيارات، إته الناس صارت تبْلغ إته إحنا جايين ب 22.7، تحكيلنا عن موضوع الزيارات في ظلّ الكورونا.

قدرى أبو بكر "أبو فادي": يعني قبل 6 الشهر كان في إلنا اجتماع إحنا مع الصليب الأحمر وأبلغنا إته إدارة السجون وافقت على زيارة الأسرى بعد 6 الشهر.

سامر تيم: نعم

قدرى أبو بكر "أبو فادي": هلا، اتفقنا إحنا والصليب الأحمر مع وزارة الصحة، بعثولنا البروتوكول إلّي لازم نتقيّد فيه، إته الباص على سبيل المثال 50 يكون فيه أقل من النص، تعقيم الباص، الكمّامات، أيضاً، الي راح يزوروا في المرحلة الأولى بلّغونا ثلاث سجون أوّل شي؛ سجن عوفر وسجن النقب وريمون، هذي الثلاث سجون الي راح يزوروها، بتبدأ الزيارات في 12 و 13 و 14 وبتستكمل لبقية السجون، لكن المناطق الي موبوءة خيلنا نقول، بالكورونا ممكن تتأجل شوي

سامر تيم: اها

قدرى أبو بكر "أبو فادي": يعني راح، هذا بناءً على...

سامر تيم: بس لا زلتو بمشاورات مع الصليب بهذا الموضوع؟

قدرى أبو بكر "أبو فادي": بمشاورات، وإحنا متفقين برضو طبعاً، إحنا بدنا يعني الحرص على سلامة أهلنا، وبدأ الإعداد، الآن نشر الصليب الأحمر، الي بدهن يسجلوا راحوا وسجلوا تقريباً، وراح تبدأ هذي في 12 و 13 و 14

سامر تيم: منحكي عن زيارة ولا زيارتين أبو فادي؟

قدرى أبو بكر "أبو فادي": لا، يعني ثلاث زيارات راح يكون

سامر تيم: ثلاث زيارات

قدرى أبو بكر "أبو فادي": 12 و 13 و 14

سامر تيم: اها، موضوع مثلاً إنه في زيارة في 22.7 في رسالة

قدري أبو بكر "أبو فادي": 12 و 13 و 14 وفي 22 ممكن تستكمل قلت أنا للمناطق، لكن هذي مقرونة
كمان في الإجراءات الإسرائيلية بلاش نتفاجئ بكرة بدنا نشوف كيف انتشار الوباء... يمكن يكون المنع من
الجانب الإسرائيلي

سامر تيم: بالنسبة للرواتب، وصلت البنوك كاملة؟

قدري أبو بكر "أبو فادي": الرواتب، كل شي كان تمام، يوم الأربعاء بعد اتصالات طبعًا مع بعض البنوك
الي كانت موقف صرف وكلّ الأسرى تقريبًا متلقيناش تقريبًا ولا أي مكاملة من ولا أي أسير

سامر تيم: نعم

قدري أبو بكر "أبو فادي": راحوا على البنوك وانصرفلهم

سامر تيم: كلّ الاحترام، هذا أبسط شيء ممكن يتقدّم لأسرانا الي قدّموا أرواحهم، دماؤهم، سنين عمرهم من
أجل أن نحیی بكرامة وحرّية، هيّا نذهب إلى المحافظة التي نعتزّ ونفتخر بها كما كانت محافظة الوطن
المنكوبة اعتقالًا، محافظة الخليل.